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# Security Council

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## Letter dated 27 December 2001 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached report from Botswana, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I should be grateful if you would arrange for this letter and its annex to be circulated as a document of the Security Council.

(*Signed*) pp Jeremy **Greenstock**
Chairman
Counter-Terrorism Committee

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## Annex

[Original: English]

### Letter dated 22 December 2001 from the Permanent Mission of Botswana to the United Nations addressed to the Chairman of the Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

On instructions from my Government, I have the honour to transmit herewith a report pursuant to paragraph 6 of Security Council resolution 1373 (2001) of 28 September 2001.

I should be grateful if you would have the present letter and its annex circulated as a document of the Security Council.

(*Signed*) Leutlwetse **Mmualefe**
Acting Ambassador

## Enclosure

# Report by the Government of the Republic of Botswana pursuant to Security Council resolution 1373 (2001)

## Introduction

The Government of Botswana is strongly committed to the full and effective implementation of the Security Council resolutions on terrorism. In this regard, the Government has established a National Anti-Terrorism Committee, and its mandate is to ensure that Botswana fully abides by its obligations under these resolutions, in particular resolution 1373 (2001).

The Anti-Terrorism Committee is composed of officials from the following:

1. The Ministry of Foreign Affairs, which chairs the Committee;
2. The Office of the President;
3. The Attorney-General's Chambers;
4. The Department of Civil Aviation;
5. The Botswana Defence Force;
6. The Botswana Police;
7. The Department of Customs and Excise;
8. The Department of Immigration and Citizenship;
9. The Bank of Botswana.

The Committee has met several times and taken a number of steps to ensure that all the provisions of resolution 1373 (2001) are fully implemented. These steps include the enforcement of financial laws and regulations, immigration control, aviation security, asylum control and other law enforcement measures.

## Measures taken to prevent and suppress the financing of acts of terrorism

The Government of Botswana has instituted strict measures to ensure that funds owned by the nationals of Botswana or funds in the territory of Botswana are not used to support terrorist activities. Following the terrorists attacks which took place in New York, Washington, D.C. and Pennsylvania on 11 September 2001, the Bank of Botswana issued a circular to all financial institutions in Botswana with clear instructions that they should take all measures necessary to ensure that they do not provide safe harbour for terrorist actions or activities and to freeze without delay funds and other financial assets of persons who may be suspected of participating in terrorist activities.

The Government of Botswana is happy to report that, so far, no activities have been detected to suggest that Botswana's financial institutions could have been used to make funds, financial assets or financial services available, directly or indirectly for the benefit of persons involved in terrorist activities. This is largely due to the country's strict laws on money-laundering.

The measures in place include a number of laws aimed at criminalizing money-laundering and enhancing the capacity of the law enforcement agencies to deal with this crime. The first such law is the Proceeds of Serious Crimes Act of 1990, the object of which is to deprive persons convicted of serious crimes of the benefit or rewards gained from such crimes. The Act explicitly proscribes the conduct of money-laundering and prescribes a relatively high sentence upon conviction.

During the same year, Botswana enacted the Mutual Assistance in Criminal Matters Act. The import of this legislation is to facilitate mutual assistance between Botswana and countries which have reciprocal application of its provisions. It is an instrument through which the primary objectives of the Proceeds of Serious Crimes Act are executed across our borders. To a great extent, it runs parallel to the Extraditions Act of 1990.

Additionally, and subsequent thereto, Botswana enacted the Corruption and Economic Crime Act in 1994, and the Banking Act in 1995. By the former Act, a Directorate on Corruption and Economic Crime was established, which is a law enforcement agency charged with the task of investigating and prosecuting serious economic crimes, corruption, and money-laundering offences.

The Banking Act of 1995 provides for, among other things, unfettered access of the law enforcement agencies to information on bank accounts and entrenches the "know your customer principle" and creates an obligation on banks and their external auditors to report suspicious transactions to the Central Bank and/or law enforcement agencies.

The Banking Act of 1995 also incorporates guidelines for the identification of customers, the proper keeping of customers' records, reporting of suspicious transactions and cooperation with law enforcement agencies. These measures form the core elements of Botswana's anti-money-laundering programme.

Botswana has also paid particular attention to the requirements that measures be undertaken to detect and monitor cash or capital movements through its borders (without impeding the freedom of proper capital transfers). To this end, travellers in and out of Botswana are required to declare any funds equivalent to 10,000 pula (US$ 1=P7) or more in their possession at any point of entry or exit. Similarly, banks are required to complete forms for outward transfers of money equivalent to P10,000 or more.

The Banking Act also allows the Bank of Botswana to share information with other supervisory authorities around the world.

The Directorate on Corruption and Economic Crime and the Central Bank have developed an effective working relationship on matters relating to financial crimes, and that relationship has contributed towards the development of formal measures to combat money-laundering activities.

In response to the recognition by the Government that exchange controls hinder economic development, Botswana abolished exchange controls beginning 9 February 1999. However, as it was recognized that some aspects of the exchange control arrangements served to hinder money-laundering, a directive issued to banks by the Central Bank following the abolition of exchange controls ensured that those aspects were retained.

The Bank of Botswana has also recently issued revised guidelines establishing minimum standards and practices by financial institutions for effective anti-money-laundering programmes.

## Measures taken to prevent support for terrorist activities

### General legislative measures

Botswana has never provided any form of assistance or support to entities or persons involved in terrorist activities. In addition, no nationals of Botswana are known to have participated in the activities or to be members of any terrorist group.

In addition to the laws mentioned above, Botswana has also enacted the statutes hereunder listed to enable it to meet its international obligations to combat crime in all its forms, including offences of terrorism:

(a) *Arms and Ammunition Act, Cap. 24:01*

This statute limits access to firearms by persons other than the disciplined forces. The Act empowers the Commissioner of Police to regulate the issuing of arms certificates. Under the same Act, the Botswana Police is empowered to investigate cases involving arms and ammunition trafficking;

(b) *Extradition Act, 1990 (No. 18/1990) and Extradition Amendment Act, 1997 (No. 9/1997)*

This piece of legislation deals with extradition to and from Botswana of fugitive offenders;

(c) *Drugs and Related Substances Act (No. 18/1992)*

This Act is aimed at combating incidents of drug smuggling.

We believe that the aforelisted statutory acts have contributed in no small measure to the prevention of the commission of terrorist acts in Botswana; enabled us to prohibit the recruitment of nationals of Botswana into terrorist groups; and prevented the supply of weapons to terrorists through the territory of Botswana.

### Measures regarding the movement of goods through the territory of Botswana

The Customs and Excise Duty Act of 1970 empowers the Botswana Customs Authorities to impose restrictions on the importation of any materials that do not comply with laws of Botswana. Customs officers are empowered by said Act to stop any vehicle or aircraft, including persons, for search to determine whether the goods being carried or conveyed are in compliance with the provisions of the Act or any other Botswana laws. The goods which cannot be allowed through our borders include controlled diamonds, arms and ammunition, controlled drugs and money-laundering.

In discharging this function, the Customs Authorities collaborate with other law enforcement agencies, such as the Police, Immigration, and the Directorate on Corruption and Economic Crime. The Authorities also collaborate with their counterparts regionally and internationally.

**Regional and international cooperation**

Botswana is a member of the Southern African Regional Police Chiefs Cooperation Organisation (SARPCCO). The establishment of SARPCCO has allowed the countries of southern Africa to share information in connection with criminal activities, investigations and proceedings relating to all kinds of crimes, including acts of terrorism. For example, member States have recently agreed to conduct what is called the Project Diamante Operation. This operation allows member countries to work together and share information on crimes involving stolen motor vehicles, arms and ammunitions trafficking and drug smuggling and trafficking in the region.

Botswana is also a member of Interpol and participates in all the meetings of its General Assembly. For example, we participated at the recent ICPO Interpol General Assembly meeting, and were party to the decision of the meeting which called upon all member States to collaborate to the fullest extent permitted by law, in identifying individuals who may have assisted in committing acts of terrorism and bringing them to justice.

**Aviation security**

Botswana took immediate measures after the 11 September 2001 attacks to reinforce aviation security at its airports. Special attention has been given to limiting access to restricted areas and to remedy deficiencies in the screening of passengers and their baggage. The access points have been reduced at night for ensuring better and effective control. We have 100 per cent screening of hold baggage.

The situation is kept under constant review with the help of the airlines and the non-scheduled operators. Security awareness lectures and training for security personnel is also being undertaken. A report on the aviation security measures undertaken has been submitted to the Regional Director, International Civil Aviation Organization (ICAO), in Nairobi, Kenya.

Botswana's Aviation Security Act 1993 incorporates the main ICAO aviation security conventions, namely:

(a) The Convention on Offences and Certain Other Acts committed on Board Aircraft (signed at Tokyo on 14 September 1963);

(b) The Convention for the Suppression of Unlawful Seizure of Aircraft (signed at The Hague on 16 December 1970);

(c) The Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation (signed at Montreal on 23 September 1971).

This Act provides for stringent penalties for persons caught committing or attempting to commit, aid, abet, counsel or procure persons to commit offences against civil aviation.

**Anti-terrorism conventions**

Botswana has signed and ratified the following anti-terrorism conventions:

- The 1963 Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft;
- The 1970 Hague Convention for the Suppression of the Unlawful Seizure of Aircraft;

- The 1971 Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civilian Aviation;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection;
- Convention on the Physical Protection of Nuclear Material;
- International Convention against the Taking of Hostages;
- Convention on the Prevention and Punishment of Crime against Internationally Protected Persons, including Diplomatic Agents;
- Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation;
- International Convention for the Suppression of the Financing of Terrorism;
- International Convention for the Suppression of Terrorist Bombings;
- Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, Supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation.

The Convention against Transnational Organized Crime, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, and the Protocol against the Smuggling of Migrants by Land, Sea and Air are being considered for ratification. It is expected that the instruments of ratification will be deposited before March 2002.

A number of the provisions of these instruments have been incorporated in the Botswana National Security Act of 1986. The thrust of this Act is to proscribe any conduct intended to assist persons from aiding any foreign Power to the detriment of the security and safety of Botswana. Where citizens or persons owing allegiance to Botswana commit any acts of terrorism, said acts are punishable under this Act. Regarding those provisions which Botswana has not yet incorporated into its domestic legislation, a number of administrative procedures and mechanisms are in place to ensure their implementation.

**Immigration control**

Botswana has established very strict regulations on the movement of persons through its borders. There are strict requirements regulating the movement of people to and from Botswana.

**Procedures/mechanisms for asylum seekers and refugees**

With specific reference to operative paragraph 3 (f) of resolution 1373 (2001), there are clear procedures in place which serve to screen and isolate people guilty of criminal activities from genuine asylum seekers. Where this is ascertainable, those individuals have been kept outside the refugee protection regime.

Regarding paragraph 3 (g), which requires countries to be on guard against abuses of the institution of asylum where people may claim political motivation in order to avoid extradition, again Botswana has been very vigilant. Where the claim of political motivation is not supported by evidence, the affected individuals are subjected to extradition proceedings. This was the case prior to the 11 September 2001 attacks.